

EN



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/439,482	11/12/1999	PETER BERNARD		1692

7590

01/28/2005

Judith A. Szepesi
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

EXAMINER

CHUNG, DANIEL J

ART UNIT

PAPER NUMBER

2672

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/439,482

Applicant(s)

BERNARD ET AL.

Examiner

Daniel J Chung

Art Unit

2672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-32 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/26, 11/2, 12/6.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-32 are presented for examination. This office action is in response to the amendment filed on 10-26-2004.

Information Disclosure Statement

Receipt is acknowledged of Applicant's Information Disclosure Statement of 10-26-2004, 11-2-2004, and 12-6-2004, which has been placed in the application file and considered by the Examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Murashita et al (6,504,950).

Regarding claim 1, Murashita et al discloses that the claimed feature of a system for providing images to a user comprising: in response to a user request [i.e. "client sends calibration data transfer request to server"; S71, See col 27 line 55-59] to display

one or more images on a user color display device [i.e. "display a calibration image based on the calibration data"; S73, See col 27 line 64-67], determining available display device characterization data [i.e. "calculating display calibration information"] for the user color display device; and causing a version of the one or more images ["a calibration image based on the calibration data"] having color characteristics [i.e. "color calibration data", "color profiling data"] appropriate to determined characterization data for the user color display device [i.e. "server sends calibration data to client"; S72, S91, S101] to be provided to the user. (See Abstract, See Fig 33-34, Fig 36, Fig 38-39, Fig 41-44, col 30 line 17-col 34 line 10)

Regarding claims 2-3, Murashita et al discloses that displaying to the user a first icon/second icon [i.e. by "notification of calibration", "notification unit"] on the display device. (See Abstract, See Fig 33-34, Fig 36, Fig 38-39, Fig 41-44) where it is an notoriously well known in the art that using the icons/flags to represent the availability of specific data in order to improve user's responsiveness.

Regarding claims 4-5, Murashita et al discloses that color correction ["color matching", "color calibration"] of the one or more images is on-the-fly, and color correction of images is by selection of a group of one or more images from one or more groups of pre-transformed images. (See Abstract, See Fig 33-34, Fig 36, Fig 38-39, Fig 41-44)

Regarding claims 6-7, Murashita et al discloses that color correction of the one or more images in accordance with the display device characterization data for the user color display device and a predetermined set of display device color characterization parameters. [i.e. "color matching", "color calibration"] (See Abstract, See Fig 33-34, Fig 36, Fig 38-39, Fig 41-44)

Regarding claim 8, Murashita et al discloses that the user is a person or the user ["user operation"] is a client computer ["client"; 106] connected to a computer network ["network"; 104] including an Internet, an intranet, or a local area network. (See Fig 33-34, Fig 36, Fig 38-39, Fig 41-44)

Regarding claim 9, Murashita et al discloses that the user is a client computer ["client"; 106] connected to a computer network ["network"; 104]; and the method further comprises receiving the user request at a server computer ["server"; 102] connected to the computer network. [i.e. "client sends calibration data transfer request to server"; S71] (See S71 in Fig 30, Fig 33-34, S83 in Fig 35, Fig 38-45)

Regarding claim 10, Murashita et al discloses that providing information [i.e. "user responds"] from the client to the server to determine user color display device characterization data for the user color display device. (See S82-S83 in Fig 35, S92 in Fig 40)

Regarding claims 11-13, Murashita et al discloses that the information provided from the client to the server is a cookie [i.e. "client sends calibration data transfer request to server"; S71], which the cookie contains information to enable the server to identify the user and the user color display device characterization data for the user color display device. (See Fig 33-36, Fig 38-43, Fig 45, Fig 48), where it is an notoriously well known in the art that color information can be generated and stored in a cookie for transmission and storage on client, or elsewhere in Network.

Regarding claim 14, Murashita et al discloses that retrieving from a database [i.e. "calibration data holding unit",] the user color display device characterization data for the user color display device in accordance with the user identification ["user response", "by user operation"; i.e. "control button settings". (See Fig 33-36, Fig 38-43, Fig 45, Fig 48)

Regarding claim 15, claim 15 is similar in scope to the claim 1, and thus the rejection to claim 1 hereinabove is also applicable to claim 15.

Regarding claim 16, claim 16 is similar in scope to the claim 2, and thus the rejection to claim 2 hereinabove is also applicable to claim 16.

Regarding claim 17, claim 17 is similar in scope to the claim 3, and thus the rejection to claim 3 hereinabove is also applicable to claim 17.

Regarding claim 18, claim 18 is similar in scope to the claim 4, and thus the rejection to claim 4 hereinabove is also applicable to claim 18.

Regarding claim 19, claim 19 is similar in scope to the claim 6, and thus the rejection to claim 6 hereinabove is also applicable to claim 19.

Regarding claim 20, claim 20 is similar in scope to the claim 5, and thus the rejection to claim 5 hereinabove is also applicable to claim 20.

Regarding claim 21, claim 21 is similar in scope to the claim 5, and thus the rejection to claim 5 hereinabove is also applicable to claim 21.

Regarding claim 22, claim 22 is similar in scope to the claim 7, and thus the rejection to claim 7 hereinabove is also applicable to claim 22.

Regarding claim 23, claim 23 is similar in scope to the claim 5, and thus the rejection to claim 5 hereinabove is also applicable to claim 23.

Regarding claim 24, claim 24 is similar in scope to the claim 8, and thus the rejection to claim 8 hereinabove is also applicable to claim 24.

Regarding claim 25, claim 25 is similar in scope to the claim 9, and thus the rejection to claim 9 hereinabove is also applicable to claim 25.

Regarding claim 26, Murashita et al discloses that the server includes the data provider. (See Fig 33-34, Fig 36, Fig 38-39, Fig 41-44)

Regarding claim 27, claim 27 is similar in scope to the claim 10, and thus the rejection to claim 10 hereinabove is also applicable to claim 27.

Regarding claim 28, claim 28 is similar in scope to the claim 11, and thus the rejection to claim 11 hereinabove is also applicable to claim 28.

Regarding claim 29, claim 29 is similar in scope to the claim 12, and thus the rejection to claim 12 hereinabove is also applicable to claim 29.

Regarding claim 30, claim 30 is similar in scope to the claim 13, and thus the rejection to claim 13 hereinabove is also applicable to claim 30.

Regarding claim 31, claim 31 is similar in scope to the claim 14, and thus the rejection to claim 14 hereinabove is also applicable to claim 31.

Regarding claim 32, claim 32 is similar in scope to the claim 26, and thus the rejection to claim 26 hereinabove is also applicable to claim 32.

Response to Argument/Amendments

Applicant's argument and amendments received on 10-26-2004 have been fully considered. However, they do not overcome the previous rejections, which have been maintained. Thus, the finality of this office action is deemed proper.

Regarding to claims 1 and 15, applicant argued that the cited reference does not discloses that "a user request to display one or more images on a user color display device" and "causing a version of the one or more images having color characteristics appropriate to determined characterization data for the user color display device." However, Murashita et al clearly discloses that user request [i.e. "client sends calibration data transfer request to server"; S71, See col 27 line 55-59] to display one or more images on a user color display device [i.e. "display a calibration image based on the calibration data"; S73, See col 27 line 64-67] and causing a version of the one or more images ["a displayed calibration image based on the calibration data"] having color characteristics appropriate to determined characterization data [i.e. "color calibration data", "color profiling data"] for the user color display device [i.e. "server sends calibration data to client"; S72]. See the rejection hereinabove. Furthermore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a user

Art Unit: 2672

requesting **an image**) are not recited in the rejected claim(s), as broadly claimed by applicant. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Applicant's response and amendment are not persuasive and the previous grounds of rejection have been maintained. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Chung whose telephone number is (703) 306-3419. He can normally be reached Monday-Thursday and alternate Fridays from 7:30am- 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael, Razavi, can be reached at (703) 305-4713.

Art Unit: 2672

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306 (Central fax)

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

djc
January 13, 2005



MICHAEL RAZAVI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600